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REGULATION (EEC) No 441/69 OF THE COUNCIL

of 4 March 1969

laying down additional general rules for granting export refunds on products subject to a single price system, exported unprocessed or in the form of certain goods not covered by Annex II to the Treaty

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 136/66/EEC[1] of 22 September 1966 on the establishment of a common organisation of the market in oils and fats, and in particular Articles 18 and 28 (2) thereof;

Having regard to Council Regulation No 120/67/EEC[2] of 13 June 1967 on the common organisation of the market in cereals, and in particular Article 16 (5) thereof;

Having regard to Council Regulation No 121/67/EEC[3] of 13 June 1967 on the common organisation of the market in pigmeat, and in particular Article 15 (4) thereof;

Having regard to Council Regulation No 122/67/EEC[4] of 13 June 1967 on the common organisation of the market in eggs, and in particular the fourth subparagraph of Article 9 (2) thereof;

Having regard to Council Regulation No 123/67/EEC[5] of 13 June 1967 on the common organisation of the market in poultrymeat, and in particular the fourth subparagraph of Article 9 (2) thereof;

Having regard to Council Regulation No 359/67/EEC[6] of 25 July 1967 on the common organisation of the market in rice, and in particular Article 17 (5) thereof;

Having regard to Council Regulation No 1009/67/EEC[7] of 18 December 1967 on the common organisation of the market in sugar, and in particular the fourth subparagraph of Article 17 (2) thereof;

Having regard to Council Regulation (EEC) No 804/68[8] of 27 June 1968 on the common organisation of the market in milk and milk products, and in particular Article 17 (3) thereof;

Having regard to Council Regulation (EEC) No 805/68[9] of 27 June 1968 on the common organisation of the market in beef and veal, and in particular Article 18 (4) thereof;

Whereas the regulations laying down general rules for granting export refunds on products subject to a single price system and the criteria for fixing the amount of such refunds provide that, except where the refund is varied according to the use or destination of the exported products, the refund is paid upon proof that such products have been exported from the Community;

Whereas in order to ensure a balance between the use of Community basic products with a view to exporting processed products or goods to third countries and the use of basic products from such countries admitted under inward processing arrangements, the refund should be paid as soon as the Community basic products from which processed products or goods intended for export are obtained are placed under customs control;

Whereas Community products are at a real disadvantage in relation to products from third countries only in cases where the latter are the subject of economically significant inward processing operations; whereas the refund should be paid in

[1] OJ No 172, 30.9.1966, p. 3025/66.
[2] OJ No 117, 19.6.1967, p. 2269/67.
[3] OJ No 117, 19.6.1967, p. 2283/67.
[4] OJ No 117, 19.6.1967, p. 2293/67.
[5] OJ No 117, 19.6.1967, p. 2301/67.
[6] OJ No 174, 31.7.1967, p. 1.
[7] OJ No 308, 18.12.1967, p. 1.
[8] OJ No L 148, 28.6.1968, p. 13.
[9] OJ No L 148, 28.6.1968, p. 24.

advance only on those Community products whose exportation is affected by such operations;

Whereas it is advisable that a list should be drawn up of processed products and of goods derived from the processing or manufacture of basic products;

Whereas products covered by a common market organisation imported from third countries may under certain conditions be brought under a bonded warehouse or a free zone procedure, collection of the levy being suspended; whereas provision should be made for payment of the refund as soon as certain Community products or goods intended for export which are of particular economic significance are brought under such a procedure;

Whereas in view of the risk of fraud, a deposit should be lodged to guarantee the reimbursement of a sum not less than the amount of the refund paid where the products or goods treated under these arrangements are not actually exported from the Community within the set time limits;

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down, under the conditions and within the limits laid down in the following Articles, additional general rules for granting export refunds on the products listed in Article 1 of Regulations Nos 136/66/EEC, 120/67/EEC, 121/67/EEC, 122/67/EEC, 123/67/EEC, 359/67/EEC, 1009/67/EEC, (EEC) No 804/68 and (EEC) No 805/68 which are intended for export unprocessed or in the form of goods listed in:

— Annex B to Regulations Nos 120/67/EEC and 359/67/EEC, or

— the Annexes to Regulations Nos 122/67/EEC, 1009/67/EEC and (EEC) No 804/68.

Article 2

1. To ensure a balance between the use of a product qualifying for a refund and referred to in Article 1—hereinafter called a 'basic product'—for the exportation to third countries of products—hereinafter called 'processed products'—or of goods referred to in that Article, and the use of that basic product from such countries admitted under inward processing arrangements, the refund shall, at the request of the party concerned, be paid as soon as the basic product is placed under a customs control guaranteeing that, except in case of *force majeure,* it will be exported from Community territory after being processed into the products or goods specified in Article 1.

2. Basic products qualifying for a refund and for which inward processing arrangements are not prohibited shall be regarded as not being in balance within the meaning of paragraph 1, if it is found that re-exports of those products in the form of processed products or goods, effected under inward processing operations during a period of one year from 1 July to 30 June, stand in a proportion of not less than 10% of the total exports of the goods or processed products in question.

The same shall apply if the above-mentioned proportion is between 4% and 10% and if, in view of the economic situation, such proportion substantially hinders the exportation of Community basic products which are difficult to dispose of.

Other processed products and goods may be included in the list referred to in paragraph 3 in order to prevent economic disturbances.

3. The processed products or goods derived from the processing or manufacture of basic products covered by paragraph 1 are listed in Annex I.

The list shall be reviewed and amended as necessary each year in accordance with the procedure laid down in Article 26 of Regulation No 120/67/EEC and in the corresponding Articles of the other Regulations on the common organisation of markets, in line with the criteria fixed in paragraph 2; the first amendment shall be made, if required, one year after this Regulation enters into force.

In fixing the date from which any such amendments are to take effect, the need to give processors of basic products some security as regards the terms of supply shall be taken into account.

The rules laid down in paragraph 2 shall not apply in exceptional cases where they would result in products or goods manufactured from basic products which can be disposed of without difficulty qualifying for pre-financing.

4. The refund referred to in paragraph 1 shall be:

(a) for exports of the processed products specified in Article 1, the refund applicable to such products;

(b) for exports of the basic products specified in Article 1 in the form of goods specified in that Article, the refund applicable under the rules in force.

The rate of the refund shall, unless it is fixed in advance, be that in force on the day on which the basic products for processing are brought under customs control. Where the refund is fixed in advance, the day on which those products are brought under customs control shall be taken into consideration for the determination of any adjustments to be made to the rate applicable.

Where the refund varies according to use or destination, only that part of the refund which corresponds to the lowest rate shall be paid in accordance with paragraph 1.

5. The customs control procedure shall include the lodging of a deposit guaranteeing that an amount not less than the refund paid will be reimbursed if the processed products or goods are not exported from Community territory within the set time limit. As regards other control procedures and the rate of yield, products to be processed or manufactured shall be subject to the same rules as apply in respect of inward processing to products of the same nature from third countries.

6. The competent authorities of the Member States may refuse to apply the provisions of Article 2 (1) if the character of the applicant is not such as to guarantee that the whole transaction will be effected in accordance with the regulations or rules in force.

In each Member State this power shall be exercised in accordance with the policy in force in that State governing non-discrimination between applicants and the freedom of trade and industry.

Article 3

1. A refund or, where the refund is varied according to use or destination, the part of the refund calculated on the basis of the lowest rate shall be paid on request as soon as the products or goods listed in Annex II have been brought under a bonded warehouse or a free zone procedure.

The obligation to export those products or goods from the Community within a set time limit shall, except in case of *force majeure,* be secured by the lodging of a deposit guaranteeing the reimbursement of an amount equal to the refund paid, plus a specified additional amount, if exportation does not take place within that period.

In the latter case, the levy shall not be charged if the products or goods in question remain in the Community.

2. The list referred to in paragraph 1 shall include only such products as:

(a) are of a kind that can be stored, and

(b) (i) are harvested or produced in such a way that they cannot be sold on the world market at the time when they are harvested or produced, or

(ii) are normally purchased on the world market during the interval between two harvests or production seasons.

The list shall be reviewed and amended as necessary each year in accordance with the procedure laid down in Article 26 of Regulation No 120/67/EEC and in the corresponding Articles of the other basic Regulations; the first amendment shall be made, if required, one year after this Regulation begins to apply.

Article 4

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 October 1969.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 March 1969.

For the Council

The President

G. THORN

ANNEX I

List referred to in Article 2

CCT heading No	Description of goods
04.02	Milk and cream, preserved, concentrated or sweetened: B. Containing added sugar: I. Milk and cream, in powder or granules II. Milk and cream, other than in powder or granules (a) In hermetically sealed cans of a net capacity of 454 g or less and of a fat content, by weight, not exceeding 9·5% (b) Other, of a fat content, by weight: 1. Not exceeding 45%
04.05	Birds' eggs and egg yolks, fresh, dried or otherwise preserved, sweetened or not; B. Eggs, not in shell; egg yolks
11.01	Cereal flours: A. Wheat or meslin flour
11.07	Malt, roasted or not
11.08	Starches, inulin: A. Starches
16.02	Other prepared or preserved meat or meat offal: B. Other (than of liver) III. Other (b) Other (than that containing meat or offal of domestic swine) 1. Containing bovine meat or offal
17.02	Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel: B. Glucose and glucose syrup
17.04	Sugar confectionery, not containing cocoa: B. Chewing gum C. White chocolate D. Other
18.06	Chocolate and other food preparations containing cocoa

CCT head ng No	Description of goods
19.02	Preparation of flour, meal, starch or malt extract, of a kind used as infant food or for dietetic or culinary purposes, containing less than 50% by weight of cocoa
19.03	Macaroni, spaghetti and similar products
19.07	Bread, ships' biscuits and other ordinary bakers' wares, not containing added sugar, honey, eggs, fats, cheese or fruit
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
ex 21.05	Soups and broths, in liquid, solid or powder form: — Liquid soups and broths
21.06	Natural yeasts (active or inactive); prepared baking powders: A. Active natural yeasts: II. Bakers' yeast: (a) Dried (b) Other
21.07	Food preparations not elsewhere specified or included: C. Ice cream (not including ice-cream powder) ex F. Other, containing sugar (sucrose or invert sugar), milk products, cereals, rice or products obtained from cereals or rice
22.03	Beer made from malt
23.07	Sweetened forage; other preparations of a kind used in animal feeding B. Other, containing starch, glucose or glucose syrup falling within subheadings 17.02 B and 17.05 B, or milk products
29.04	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives: C. Polyhydric alcohols: II. Mannitol III. Sorbitol
35.05	Dextrins and dextrin glues; soluble or roasted starches; starch glues
38.12	Prepared glazings, prepared dressings and prepared mordants, of a kind used in the textile, paper, leather or like industries: A. Prepared glazings and prepared dressings: I. With a basis of amylaceous substances
39.06	Other high polymers, artificial resins and artificial plastic materials, including alginic acid, its salts and esters; linoxyn: ex B. Other (than alginic acid, its salts and esters), excluding linoxyn

ANNEX II

List referred to in Article 3

CCT heading No	Description of goods
02.01	Meat and edible offals of the animals falling within heading No 01.01, 01.02, 01.03 or 01.04, fresh, chilled or frozen: A. Meat: II. Of bovine animals III. Of swine
02.02	Dead poultry (that is to say, fowls, ducks, geese, Turkeys and guinea fowls) and edible offal thereof (except liver), fresh, chilled or frozen: A. Whole poultry B. Poultry cuts (excluding offal)
02.05	Pig fat free of lean meat and poultry fat (not rendered or solvent-extracted), fresh, chilled, frozen, salted, in brine, dried or smoked: A. Back-fat
04.02	Milk and cream, preserved, concentrated or sweetened
04.03	Butter
04.04	Cheese and curd
04.05	Birds' eggs and egg yolks, fresh, dried or otherwise preserved, sweetened or not: A. Eggs in shell, fresh or preserved: I. Poultry eggs B. Eggs, not in shell; egg yolks I. Suitable for human consumption
Chapter 10	Cereals
11.01	Cereal flours: A. Wheat or meslin flour
11.02	Cereal groats and cereal meal; other worked cereal grains (for example, rolled, flaked, polished, pearled or kibbled but not further prepared), except husked, glazed, polished or broken rice; germ of cereals, whole, rolled, flaked or ground: A. Cereal groats and cereal meal: I. Wheat V. Maize

CCT heading No	Description of goods
11.07	Malt, roasted or not: A. Unroasted ex II. Other: — of barley ex B. Roasted — of barley
11.08	Starches; inulin: A. Starches
15.01	Lard, other pig fat and poultry fat, rendered or solvent-extracted; A. Lard and other pig fat: II. Other
16.01	Sausages and the like, of meat, meat offal or animal blood: B. Other
16.02	Other prepared or preserved meat or meat offal:
17.01	Beet sugar and cane sugar, solid
17.02	Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel: B. Glucose and glucose syrup
17.04	Sugar confectionery, not containing cocoa: B. Chewing gum C. White chocolate D. Other
18.06	Chocolate and other food preparations containing cocoa
19.03	Macaroni, spaghetti and similar products:
21.07	Food preparations not elsewhere specified or included C. Ice cream (not including ice-cream powder)
35.01	Casein, caseinates and other casein derivatives; casein glues: A. Casein